

1
2 UNITED STATES DISTRICT COURT
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA
4

5 AG. G. a minor, by and through his guardian ad
6 litem, JESSICA AQUINO; AR. G., a minor, by
7 and through his guardian ad litem, JESSICA
8 AQUINO; KARLA GONSALEZ, individually;
9 and AUGUSTIN GONZALES JR., individually;

10 Plaintiffs,

11 vs.

12 CITY OF HAYWARD, a municipal corporation;
13 MARK KOLLER, individually; PHILLIP
14 WOOLEY, individually; MICHAEL CLARK,
15 individually; TASHA DECOSTA, individually;
16 and DOES 1-100, inclusive,

17 Defendants.

18 Case No. 4:19-cv-00697 DMR

19 **DECLARATION OF BENJAMIN
20 NISENBAUM IN SUPPORT OF
21 PLAINTIFFS' OPPOSITION TO
22 DEFENDANTS' MOTION FOR SUMMARY
23 JUDGMENT**

24 **Date: July 9, 2020**
25 **Time: 1:00 p.m.**
26 **Courtroom: 4**

27 **Hon. Donna M. Ryu**

28 **EXHIBIT M**

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3
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7 **INTERVIEW WITH OFC. MICHAEL CLARK**

8 **Q=Det. Robert Purnell**

9 **Q1=Det. Eric Mulhern**

10 **Q2=Atty. Harry Stern**

11 **Q3=DA Insp. Caesar Basa**

12 **Q4=DDA Autrey James**

13 **A=Ofc. Michael Clark**

14
15

16 Q: Officer Clark, you can sit next to your attorney, please.

17
18 A:

Okay. I'm sorry.

19

20 Q: The members of the District Attorney's Office can sit there. All right. For the
21 audio recording it is 11/18/2018, approximately 1509 hours or pm, in the
22 afternoon. If we could start by going around the room. I'm Detective Robert
23 Purnell and this is the officer-involved shooting interview of Officer Clark.

24

25 Q1:

Detective Mulhern, Hayward PD, Investigations Bureau.

26
27 A:

Officer Clark, Hayward PD, Patrol Division.

28
29 Q2:

I'm Harry Stern, I'm a lawyer with Raines, Lucia, Stern, and I'm here
representing Officer Clark.

30
31 Q3:

Inspector Basa with the Alameda County District Attorney's Office.

32
33 Q4:

Deputy District Attorney Autrey James, Alameda County District Attorney's
Office.

34
35 Q:

All right. So Officer Clark, the first thing I'm gonna go over is a, uh,
Interview Admonishment form. I believe you, uh, probably already gone over
this with your attorney. Um, I'm gonna kind of, uh, talk as I fill this form out,
and then I will read it and get your signature on it, so. For the, uh, again, for
the purpose of the audio recording, um, report number is 2018-94542, uh,
today's date 11/18/2018, um, I will be putting myself as the investigator. Um,
all right. Officer Clark, you are represented here at this interview by your
attorney, Harry Stern. You are not in custody and you are free to conclude the
interview at any time. You are not obligated to answer any questions. Any

46 answers you do give may be used in a court of law. Having this in mind, do
47 you wish to voluntarily proceed with the interview?
48

49 A: Yes.
50

51 Q: All right. So Officer Clark, I'm gonna have you sign if you would, please, um,
52 where it says signature of officer. Mr. Stern, if you would sign below him,
53 please.
54

55 Q2: I sure will.
56

57 Q: And I will be signing as the investigator. So, uh, Officer Clark, um, kind of
58 how the interview (unintelligible) what we're gonna do is I'm gonna go
59 through a series of, uh, kind of preliminary questions about you, uh, your
60 background, training and such of things. We'll go into a little bit about, uh,
61 your uniform, the, uh, firearm that you carry. From there we'll, uh, go into a
62 little bit about your - the vehicle you were driving, some, uh, questions about
63 the scene, uh, where this occurred. From there we'll have you do a - a free
64 narrative of the event. I'll do my best not to, uh, interrupt you as you go, um,
65 so I'll just have you describe, you know, how you responded, um, you know,
66 where you came from, what you were aware of, um, the radio traffic and such
67 things, and then what actually occurred once you, uh, go on scene. Um,
68 Detective Mulhern and I will probably, uh, go back over that and ask you
69 some questions, I do have a couple of maps of the area that will probably, uh,
70 kind of reference those types of things. From there we'll take a break, um, see
71 if there's anything we need to follow up, uh, with you on, we'll come back,
72 ask those questions. From there we'll turn it over to the members of the
73 District Attorney's Office for any questions they may have, and then we will,
74 um, uh, pass it over to Mr. Stern for anything that he may have. Um, if you
75 need to take a break, use the restroom, anything like that, please let myself or,
76 uh, Mr. Stern know, we can certainly accommodate that I'm sure.
77

78 A: Okay, thanks.
79

80 Q: All right. Um, so we'll start - if you can just, uh, state your name and spell it
81 with your badge number, please.
82

83 A: My name is Michael Clark, M-I-C-H-A-E-L, C-L-A-R-K, badge number 315.
84

85 Q: And what is your date of hire with the Hayward Police Department?
86

87 A: It was in, uh, I want to say July or so of, uh, 2009.
88

89 Q: Did you have any experience, um, any other law enforcement experience prior
90 to the Hayward Police Department?

91
92 A: Yeah, I worked for the, uh, Stockton Police Department for just under two
93 years before this.
94
95 Q: And that was as a sworn police officer?
96
97 A: Yes.
98
99 Q: Any other law enforcement experience or, uh, military experience prior to...
100
101 A: Yes, I was in the Marines for four years.
102
103 Q: What did you do in the Marine Corps?
104
105 A: Um, I was, uh, an administrator in the Marine Corps.
106
107 Q: Did you, uh, serve overseas, any combat time?
108
109 A: Yes, I was, uh, did one combat tour in Iraq.
110
111 Q: Uh, do you remember about what year that was?
112
113 A: Yeah, it was in, um, 2002 to 2003-ish.
114
115 Q: Okay. Um, on the day of the incident what was your unit designation or call
116 sign?
117
118 A: I was David 34.
119
120 Q: And does David 34 kind of, um, reference the area of town that you work and
121 the - and the shift that you work?
122
123 A: Correct. Uh, the David aspect is - represents the beat - the David beat. Um,
124 and then 34, it's, uh - uh, I don't know why they came up with that
125 designation, but the three in there indicates third watch or graveyards.
126
127 Q: Uh, can you just kind of reference where the David beat is in the city of
128 Hayward?
129
130 A: Sure. It's on the, uh, northwest part of town.
131
132 Q: And when you mentioned the graveyard shift, what - what are the actual hours
133 that you work for that?
134
135 A: 6:00 pm to 6:30 am.

136
137 Q: Are those your normal hours or does that change?
138
139 A: It changes.
140
141 Q: And what are your normal, uh, shift hours that you work in a workweek?
142
143 A: Uh, Tuesday I work 6:00 am to 6:30 pm, on Wednesday I work, uh, 1:30 pm
144 to 2:00 in the morning, and on Thursday I work 6:00 pm to 6:30 am Friday
145 morning.
146
147 Q: Is there a team or an assignment that you, uh, are given that works those
148 hours?
149
150 A: Yes, I work for - or I work on Team 7.
151
152 Q: And so that team's, uh, days and hours fluctuate, is that correct?
153
154 A: Correct.
155
156 Q: Okay. Uh, who are your supervisors on that team?
157
158 A: Uh, Sergeant Neula and Sergeant (Vonnegut), and, uh, Lieutenant (Dorn) is
159 Watch Commander.
160
161 Q: Were all of those supervisors present - present on the night of this incident?
162
163 A: Um, Lieutenant (Dorn) was not, Sergeant Neula was not. Um, Sergeant
164 (Vonnegut) was.
165
166 Q: And who is responsible out of the supervisors for the north end of town?
167
168 A: Sergeant (Vonnegut).
169
170 Q: Any other supervisors working that night?
171
172 A: Uh, Lieutenant, um, uh, (Cory) Linteo.
173
174 Q: Have you attended or received any specialized training?
175
176 A: Yes.
177
178 Q: Okay. Could you just, uh, just go over the specialized training that you have
179 received?
180

181 A: Uh, Field Training Officer. Um, I was in Stockton, uh, partially assigned to
182 the Gang Investigation Unit for a short time before I left. Uh, just, uh, stuff of
183 that nature throughout my career.
184
185 Q: Did you receive any specialized training in the Marine Corps?
186
187 A: Yes.
188
189 Q: Can you just describe that for us, please?
190
191 A: Sure. Uh, I received extensive, um, hand to hand combat training, um - um,
192 Marine Corps Martial Arts program. Uh, received firearms instruction, um,
193 rifle, uh, in particular, uh, various weapons that we u- utilized in, uh, the
194 Marines, and, uh, just regular other Marine Corps training, just going to
195 qualification with gas mask, you know, NBC, all that kind of stuff.
196
197 Q: Would you, uh, reference to Field Training Officer, what are your
198 responsibilities as a Field Training Officer?
199
200 A: Um, I'm responsible for training, mentoring, and, um, shaping newly trained
201 Marine - or, uh, police officers from out of the academy, showing them how
202 to become a - a - a - a - an officer that's competent and able to work on their
203 own on the streets.
204
205 Q: And the Gang Investigation Unit that you referenced in Stockton, what were
206 your responsibilities with that?
207
208 A: I was just kind of a - a - a trainee at that point. I wasn't really assigned, um,
209 any rank or titles in there. I was kind of learning the ways of, uh, what
210 detectives do in the gang investigation at that particular point. I was basically,
211 um, documenting gang members, um, you know, entering with the - to their
212 database as - as they, uh, saw fit.
213
214 Q: Was that a, uh, uniformed or plainclothes assignment?
215
216 A: It was a plainclothes assignment.
217
218 Q: Did you actually work outside the office doing suppression or investigations,
219 or was it mainly just...
220
221 A: Just in...
222
223 Q: ...documenting what you talked about?
224
225 A: Just - yes, just documenting.

226
227 Q: Have you been assigned - I know you - you referenced the Gang Unit - but in
228 addition, have you been assigned any specialized units, uh, our, uh, Hayward
229 Police Department's Gang Unit, Narcotics, the, uh, Special Response Unit, uh,
230 School Resource Officer, anything like that?
231
232 A: Nope.
233
234 Q: When's the last shift that you worked prior to the shift of the incident?
235
236 A: Uh, Wednesday swing shift, 1:30 to 2:00 am.
237
238 Q: Do you work any secondary jobs or did you work any extended hours on that
239 Wednesday?
240
241 A: No and no.
242
243 Q: Had you consumed any alcoholic beverages pr- in the previous 24 hours to the
244 incident shift?
245
246 A: Yes, I had a beer after work on, uh, Wednesday, and then, uh, (unintelligible)
247 Friday morning.
248
249 Q: Just a single like 12-ounce beer?
250
251 A: Just - yes - yes.
252
253 Q: And that was immediately following your shift on Wednesday?
254
255 A: Uh, it was in the morning, about 9 o'clock.
256
257 Q: Do you have any medical conditions that would impact your judgment or
258 physical abilities?
259
260 A: No.
261
262 Q: Uh, when's the last time that you slept prior to the, um, incident shift?
263
264 A: That evening, after work.
265
266 Q: Uh, can you just provide for us how long or a duration?
267
268 A: About five hours, six hours.
269
270 Q: Did you receive any injuries as a result of this incident?

271
272 A: No.
273
274 Q: Do you wear glasses or contacts?
275
276 A: I wear contacts.
277
278 Q: Did - were you wearing those contact lenses on the night of the incident?
279
280 A: Yes, sir.
281
282 Q: Do you have any other vision problems?
283
284 A: No.
285
286 Q: What class uniform were you wearing on the night of the incident?
287
288 A: I was wearing a Class B uniform, which is a PDU, I believe is what they call
‘em.
289
290
291 Q: Were you photographed in that uniform?
292
293 A: Yes, sir, I was.
294
295 Q: Do you wear your ballistic vest, um, as an external carrier or inside your
uniform shirt?
296
297
298 A: Inside my uniform.
299
300 Q: Moving down to your duty belt, if you start at the center of your belt, work
around your right side, behind your back, through your left side, back to the,
um, center of your belt, could you start with the equipment that's on your
belt?
301
302
303
304
305 A: Sure. From right to the left, ah, from right to behind - behind my body, I have
my handcuff case, double-handcuff case, um, followed by a, um, I believe it's
just my, uh, pistol on my right, and behind that I have, uh, pepper spray, then
in the back I have a flashlight, and then on my left side I have, um, a baton
ring, uh, my radio, and then I have a magazine pouch. It's in front that you
wrap around.
311
312 Q: How many magazines do you carry in that pouch?
313
314 A: Two.
315

316 Q: Were you wearing a body-worn camera?
317
318 A: Yes, I was.
319
320 Q: Did you activate it during this incident?
321
322 A: I did.
323
324 Q: Was there any damage to your uniform or equipment during the incident?
325
326 A: Uh, no damage. My boots got collected but there's no damage to anything.
327
328 Q: Um, are you issued or do you carry a, um, department Taser?
329
330 A: Oh, I'm sorry, yes. I - I forgot about the Taser. That's, uh, on my left side as
331 well by my radio pouch.
332
333 Q: And then to a little bit about the firearm that you carry. Uh, what is the make
334 and mod- and model of that firearm?
335
336 A: It's a Sig Sauer P320, 9 millimeter.
337
338 Q: Is that a department-issued gun?
339
340 A: Yes, it is.
341
342 Q: Are there any special modifications to the sights or a flashlight, anything to
343 the grips itself?
344
345 A: No, nothing at all.
346
347 Q: The ammunition that you had in your firearm, was that department issued?
348
349 A: Yes, sir.
350
351 Q: Do you know the number of rounds that were in the magazine in the weapon?
352
353 A: 17 in the magazine and one in the chamber.
354
355 Q: And how many rounds go in the magazine that you carry on your duty belt in
356 addition?
357
358 A: That is 17 as well, each.
359
360 Q: What was the last qualification date?

361
362 A: Um, gee, let's see, last month I think.
363
364 Q: Um, in addition to the department-issued firearm that you had, were you
365 carrying any backup weapons or knives?
366
367 A: No. Um, I have a knife, I'm sorry, in my vest but no - no gun, no backup gun.
368
369 Q: Can you describe the knife that you carry that's in your vest?
370
371 A: Sure, it's a, uh, just a pocketknife. It's, um, foldable and, uh, I have that, um,
372 in the little, uh, belt clip that I fasten to the inside of my vest.
373
374 Q: No other backup weapon?
375
376 A: No.
377
378 Q: Uh, what was the vehicle number, make and model that you were driving the
379 night of the incident?
380
381 A: It was a Ford Explorer. It was, uh, vehicle number 275, I believe.
382
383 Q: Is that your - the vehicle that you normally drive?
384
385 A: No.
386
387 Q: Is that a fully marked, uh, Hayward Police vehicle?
388
389 A: Yes.
390
391 Q: Can you just describe the markings on it and the, uh...
392
393 A: Sure.
394
395 Q: ...emergency equipment?
396
397 A: It's a black and white with, uh, fully marked doors with Hayward Police
398 Department insignia on it. Uh, it says Hayward Police Department on the
399 back, ah, and it's got a light bar, and, uh, emergency sirens, all of which were
400 working at the time of the - the shift.
401
402 Q: Is that light bar mounted, um, on the exterior?
403
404 A: Yes.
405

406 Q: Did you activate the emergency lights or siren, um, while responding to or
407 actually on the scene itself?
408
409 A: Yes, I did, the, uh, emergency lights.
410
411 Q: When did you activate the emergency lights?
412
413 A: Um, at the intersection of Whitman and Jackson.
414
415 Q: Just to go through the intersection or did you leave them on?
416
417 A: No, just, uh, for that, clearing that one intersection.
418
419 Q: Okay. Did you activate the light at all when you arrived on scene?
420
421 A: Um, I - I don't recall, no. If I did it would have been just to put on my back
422 lights to warn cars that I was there, but I don't recall if I did that or not.
423
424 Q: Did you activate, uh, spotlights or anything...
425
426 A: Yes.
427
428 Q: ...when you're on the scene?
429
430 A: I had a spotlight on.
431
432 Q: Uh, the driver's side, passenger side or both?
433
434 A: Driver's side.
435
436 Q: Okay. Were you the only officer in that vehicle?
437
438 A: Yes.
439
440 Q: Did not have a ride along?
441
442 A: Correct.
443
444 Q: We're gonna, ah, go from there to just kind of scene conditions. Can you
445 describe the location of the shooting?
446
447 A: Yeah, it was, uh, in mid-block O'Neil, um, which is a city street that has, uh,
448 residential homes as well as a well-known apartment complex in the area, uh,
449 just down the street from the incident.
450

451 Q: What was the weather conditions that day?
452
453 A: Um, it was clear, um, it was like normal temperature, it wasn't cold, it wasn't
454 hot. It was, um, the air condition was pretty bad from the smokes from the
455 fires.
456
457 Q: Can you describe the lighting conditions at the scene?
458
459 A: Um, it was a dark street. Um, it is, uh, the street does have, um, streetlights,
460 but I recall it being illuminated more or less by headlights and spotlight.
461
462 Q: Um, in addition to street lighting, is there any residences or businesses or such
463 that have any type of artificial light?
464
465 A: Yeah, there's, uh, some of the residents have street - oh, I'm sorry, uh, porch
466 lights.
467
468 Q: All right. So we've come to the point, um, like I discussed earlier about kind
469 of the prenarrative of the event. So if you can start by just describing for us,
470 um, how you became aware of this incident, where you responded from, how
471 you kind of got there. Um, obviously anything that you remember about radio
472 traffic or, um, dispatch information, um, obviously once you arrive on scene
473 what kind of transpires from there and then, uh, obviously walk through the
474 incident itself.
475
476 A: Sure. Um, it was roughly around 9 o'clock. Um, I was parked, um, underneath
477 the, uh, overpass at the dead end of Review Way. Uh, the call came out, it was
478 a single beep, a tone, which basically our dispatchers use to bring to our
479 attention that there's a significant incident in progress. Um, then I heard
480 dispatch, uh, advise that there was a Hispanic male with a knife, um,
481 threatening people on, um, O'Neil and Orchard area. So being that half of our
482 team was gone that day, we had a lot of overtime on the shift, I attached to
483 the call, uh, to go help out in any way I could, and so I responded from
484 Review and I drove, uh, drove normally, uh, and then I got to Jackson and
485 Whitman, wanted to make sure I got there, so I turned my - activated my
486 emergency lights to clear the intersection. I drove, um, uh, I went eastbound
487 on Jackson. I hooked a right going southbound onto Silva. From Silva it
488 comes into - it kind of dead ends into, uh, Sycamore, so I - I had hooked a left
489 on Sycamore, and then, uh, a right onto Whitman. From Whitman to Mardie,
490 and Mardie takes you to Joanne, Joanne to Orchard, and then right there is the
491 intersection of Orchard and, uh, and, um, O'Neil. And then, uh, after I got to
492 the - to the intersection of O'Neil and Orchard, um, I heard Sergeant DeCosta,
493 uh, and Officer Wooley say they were getting flagged down, um, and Sergeant
494 DeCosta put out like the name of the apartment complex, uh, on O'Neil, but
495 I'm not familiar with the numbers off the top of my head. So I, uh, went

496 northbound onto O'Neil. I drove, I saw a police car parked along the side of
497 the road and - and (unintelligible) was in it. Um, then as I get to, uh, another
498 police car, I believe it was Officer Wooley's, um, that's when I - I get out of
499 the car and I see, um, Officer Wooley off to my left, and then I see, uh, I don't
500 - I didn't see Sergeant DeCosta. I don't know where she was at that particular
501 point. I know she was there but I didn't - like I don't remember where she was
502 in proximity to us. Um, as I get out of my car I start walking towards the front
503 of Officer Wooley's car, and that's when I see, um, uh, a gentleman wearing a
504 red and black, uh, like Pendleton, um, walking at - with a methodical - at a
505 methodical pace, like, uh, just walking with - towards Officer Wooley with his
506 hand extended out. Um, and so therefore, uh, I believed that he was - and I
507 heard Officer Wooley telling me that - "Put down the knife, put down the
508 knife." He sh- he told us that he had a knife, um, and so after the guy was
509 approaching Officer Wooley, I believed that Officer Wooley's life was in
510 danger, and so I delivered, uh, two rounds I believe and stopped threat, and
511 then, uh, from there, I went and, uh, put him in handcuffs, and then Officer
512 Gillett took over and, uh, and, uh, rendered medical aid until fire department
513 and police, uh, um, paramedics were coming in and continue, uh, medical
514 procedures.

516 Q: All right. So, ah, you went over a lot so we're gonna kind of go back and
517 break it down from there. So you said it was about, uh, 9 o'clock at night, so
518 2100 hours?

520 A: Correct

522 Q: And then you said you were at the dead end of Review and then you heard a
523 beep tone?

525 A: Yeah

527 Q: And you described that as a significant incident. For somebody's who's not
528 aware, could you just describe what you would reference as a significant
529 incident?

531 A: Sure. When dispatch tones us, um, and gives us that beep, so to speak, it's to
532 bring it to the police officer's attention that there's a significant attempt, like a
533 robbery or stabbing or shooting or something that requires immediate
534 attention.

536 Q: Could that be referred to as like a priority incident?

538 A: Absolutely.

Okay. And then you noted that the initial dispatch was a Hispanic male with a

541 knife?

542
543 A: Correct.

544
545 Q: Do you recall anything else about what was being said in regards to the, uh,
546 the call that was coming out?

547
548 A: Just that he was, uh, out on foot on the street, and he was, uh, walking around
549 threatening people with a knife.

550
551 Q: In your mind when you hear that somebody's threatening somebody with a
552 knife, um, how did that change your response to the incident?

553
554 A: Um, that it ups the ante because like it - it requires a - a response or we're
555 getting there in a hurry, you know what I'm saying, we're - we're radio -
556 monitoring the radio. Um, it's - it's a necessary thing to get there in a timely
557 manner, basically.

558
559 Q: In addition to being threatened with a knife, were you made aware of or was
560 there any talk of somebody actually being harmed with the knife itself?

561
562 A: No, not that I can recall at the, uh, at the - the original dispatch.

563
564 Q: Okay. Was there any description besides, "Hispanic male with a knife," given
565 out?

566
567 A: I believe they gave a - a clothing description, um, Hispanic male with blue
568 jeans and, um, I believe they said red color shirt.

570 Q: Was the knife ever described in the radio dispatch?

571
572 A: Not that I can recall.

573
574 Q: Was it ever referenced as anything other than a knife?

575
576 A: Not that I can recall.

577
578 Q: You noted that you attached - can you just describe for us what attached
579 means?

580
581 A: Sure. Um, attached basically means that I wasn't initially dispatched, being
582 called over the radio. Um, so - but like I said because our team was more or
583 less - there was three regular Team 7 members on the team that particular
584 night, so to avoid, um, one of my beat partners that was working overtime had
585 to take some, um, significant paper, perhaps I attached to it meaning, um, I -

586 there was a call created and obviously it got dispatched, and then I used my
587 computer and I just attached to it. I don't know how to explain it. I just
588 basically - you can attach to your call, and so I - I attached to this one, and I
589 started heading to the scene.
590

591 Q: So when you say attached, the computer allows you to tell the dispatcher
592 through the computer that you're en route to that call?
593

594 A: Correct.
595

596 Q: Okay.
597

598 Q1: Self dispatch?
599

600 A: Self dispatch.
601

602 Q: So you described your, uh, your route, um, that you went. Um, as you're
603 responding, is anything else being put out about this call over the radio?
604

605 A: Yeah, it was just that he - there - it was continuing that this guy was still out
606 and he had a knife - well, it was a - I don't recall the - the details but I
607 remember that it was - in my mind I'm thinking this is significant, this guy's
608 been out here for a while now, you know, and so, uh, it was, uh, it was an
609 ongoing situation, so...
610

611 Q: What's kind of your thought process there? Are you preparing tactics or are
612 you concerned about anyone being harmed as you're responding to this
613 incident?
614

615 A: Yeah, absolutely. I'm - I'm concerned for the public, I'm concerned for my
616 partners that are gonna be there, if they get there before me. Um, so just, you
617 know, anytime you get a call with, ah, someone armed with a knife, I - I think
618 it naturally - it bugs some kind of degree of, um, fear for the public, fear for
619 the, you know, safety of anyone in that sense.
620

621 Q: And why would you be concerned about safety with a knife reference?
622

623 A: Because you can get stabbed, you can get hurt. You know, citizens can get
624 hurt.
625

626 Q: In your training and experience as a police officer, did you respond to
627 anything involving a knife before where somebody's been injured?
628

629 A: Yes.
630

631 Q: And what are some of those injuries that you've seen?
632
633 A: Multiple stabbings throughout the - throughout my career. I've been a police
634 officer for 11 years. Um, so, you know, I've seen firsthand the destructive
635 damage that a knife, you know, inflicted knife wounds can do, so like so, you
636 know, obviously I was concerned about that aspect.
637
638 Q: You ever seen a knife or an edged weapon cause somebody's death?
639
640 A: Yes.
641
642 Q: Um, any great bodily injuries caused by a knife or edged weapon?
643
644 A: Yes.
645
646 Q: You noted, um, either as you were responding or rather as you're arriving that
647 Sergeant DeCosta and Officer Wooley are putting out that they're flagged
648 down. Could you just describe for us what you meant by that?
649
650 A: Sure. Uh, basically a citizen, um, waved them down and said, "Hey, here's
651 where the guy is," here's what - I don't know exactly what the circumstance
652 was 'cause I can't speak on behalf of them, but I remember, um, them
653 updating on the radio that they were being flagged down, basically stating that
654 some citizen was bringing to their attention that the threat was within close
655 proximity to them.
656
657 Q: And you noted that, um, from there you drove northbound on O'Neil, and
658 that's right off - from Orchard, is that correct?
659
660 A: Yes.
661
662 Q: That you were going down?
663
664 A: Yes.
665
666 Q: And then you pass a, uh, police car that's parked. Do you know whose police
667 car that was that you passed?
668
669 A: I don't know definitively. I - if I were, um, just kind of looking back at the
670 situation I would say it was probably Sergeant DeCosta's.
671
672 Q: But you're not sure of that?
673
674 A: Right.
675

676 Q: Is that correct?
677
678 A: I don't - yeah, I don't know 100% it was Sergeant now. Seems reasonable that
679 it would be her car.
680
681 Q: And then, uh, you know that you passed a second car which you believed was
682 Officer Wooley's, is that correct?
683
684 A: That's correct.
685
686 Q: How did you position your patrol unit in comparison to Officer Wooley's?
687
688 A: Uh, slightly off behind him, um, to his right side, uh, but, uh, parked behind
689 him and I stopped right in the middle of the street.
690
691 Q: And at what point do you activate the, uh, driver's side spotlight that you
692 referenced earlier?
693
694 A: Um, it was on Orchard and O'Neil, right at the corner there, as I pulled on
695 scene.
696
697 Q: So your spotlight's on as you're driving up the street?
698
699 A: Yes.
700
701 Q: I'll show you a map. Um, so this is a Google Map image. Um, the top of the
702 paper is kind of northbound in the city, bottom is south. Um, as you'll see,
703 um, kind of in the middle here is O'Neil Avenue running kind of, uh,
704 northwest, southeast.
705
706 A: Okay.
707
708 Q: Um, off to the east of that is Mission Boulevard. Um, at the very bottom is,
709 uh, Orchard. Do you recognize that area of town?
710
711 A: I do.
712
713 Q: Okay. Can you take, uh, this red marker here and just indicate with an X
714 where you stop your patrol vehicle?
715
716 A: It seems to me it was mid-block somewhere.
717
718 Q: Okay. And, um, I'll show you a second map image. This is a closer up image
719 of, uh, the same, but again, um, the top of the paper is, uh, heading north,
720 bottom's facing south. This is O'Neil in the middle. Um, off to the east you'll

721 see a bunch of cars. Do you recognize the cars off to the east side of the
722 picture here?

723
724 A: That's a dealership, car dealership.

725
726 Q: Okay. Um, in the very middle there is two diamonds in the, um, middle. I
727 believe that's a speed bump.

728
729 A: I know...

730
731 Q: Do you recognize that?

732
733 A: Um, I recognize it from the picture. I don't recall the speed bump...

734
735 Q: Okay.

736
737 A: ...here having anything to do with this particular case.

738
739 Q: Okay. Uh, when you look at this kind of zoomed in picture, does that help
740 kind of refresh your recollection as to where you parked your patrol vehicle?

741
742 A: Not really, I mean I'm very familiar with O'Neil, but I mean I can tell you
743 everything about O'Neil from - based on memory, but it just - I don't
744 remember exactly where in proximity on this looking at this picture.

745
746 Q: Okay. Understandable. So what I'm gonna do is I'm gonna go back to this
747 first picture where you indicated the X. Uh, can you just kind of indicate on
748 there where, uh, with maybe a - a square, where, um, Officer Wooley's
749 vehicle is in relation to yours?

750
751 A: Sure. So I'm the X, Officer Wooley's car would have been, um, uh, like
752 directly right in front of me.

753
754 Q: Okay. So you noted, um, that you arrived on scene, you stopped, um, to the
755 right of and behind Officer Wooley's vehicle and you get out. Um, what is
756 kind of the first thing that your attention is drawn to when you exit your
757 vehicle?

758
759 A: First thing I - I'm - I'm drawn to is that there's kind of this - this general sense
760 of chaos going on. Uh, there's people, um, I hear - I don't hear what they're
761 saying in pic- particular but I hear people kind of like frantic, and then I see
762 this - this gentleman coming after Officer Wooley with something, you know,
763 with his hands out and matched the description of what we're getting sent out
764 there to look for. And, um, then, you know, that's, uh, that's just kind of some
765 of the overall - it was kind of a sense of chaos when we got on the scene

766 quick.
767
768 Q: So you described the - you described the people as frantic. What about them
769 was frantic? Were they yelling or screaming, or were they crying? What were
770 they doing that made you believe they were frantic as you referenced?
771
772 A: Just they were, um, there were people just kind of just milling about the area
773 that, you know, based on, you know, normal standards that a lot of people
774 aren't gonna be out on the street at 9 - 9 o'clock at night, you know, and there
775 was - it seemed like there was a - a pretty good crowd as, uh, there was
776 something that made - made people come out, and there was just this kind of
777 just general sense of like people talking loud, um, you know, just - just kind of
778 like big curious - curiosity as well. You just - I don't know, I don't know how
779 to say it, just - just seemed like - like an abnormal situation. People were just
780 kind of, um, uptight.
781
782 Q: Okay. So you described that you walked to the front of Officer Wooley's car,
783 and then, um, I think you said that you saw the suspect?
784
785 A: Correct.
786
787 Q: Okay. What about him made you realize that this is the suspect or the person
788 that you're responding to this call for?
789
790 A: Um, because I heard Officer Wooley giving commands, uh, and then I saw
791 him, and he matched the description, um, of the - of the detail and, uh...
792
793 Q: What about him matched the description?
794
795 A: He had a black and white Pendleton on. Uh, he was a Hispanic male. Um, and
796 heavyset. He just - it was very obvious to me that he was, um, the person that
797 was armed with a knife, and especially since he was - I have - I heard Officer
798 Wooley say, "Hey, he's - he's - he's got the knife in his hand," and, ah,
799 something to that effect and he was walking, um, not obeying any commands
800 that Officer Wooley was giving him, and he was walking with purpose, uh,
801 that I know from my training and experience was, um, indicative to me that he
802 was a - a very viable threat at that point to Officer Wooley.
803
804 Q: So, um, as you walk around the front of Officer Wooley's car, uh, how far is
805 the suspect from you, first?
806
807 A: From me? Uh, 10, 15 feet.
808
809 Q: And how far is the suspect from Officer Wooley?
810

811 A: Probably the same distance.
812
813 Q: So I know that you said you're hearing Officer Wooley give commands. What
814 are the specific commands that you remember hearing?
815
816 A: Uh, "Drop the knife," something along those lines. He was giving him, uh,
817 commands to put - put the weapon down and, uh, and then I - I heard - after
818 that I heard Officer Wooley say "He's got the knife, um, he's got the knife,"
819 and so that was the things I heard.
820
821 Q: Okay. Now when you are hearing Officer Wooley give these commands, do
822 you see anything in the suspect's hands?
823
824 A: I saw his hand out and walking, um, at Officer Wooley, but I - I couldn't - I
825 didn't specifically see something in his hands at that particular, but I saw it
826 that he had his hands extended towards Officer Wooley.
827
828 Q: So you're - for the audio you're, um, kind of - you've got your hands together
829 and you're kind of extended, pushed out away from your body?
830
831 A: Correct.
832
833 Q: And are his hands pointed towards Officer Wooley?
834
835 A: Yes.
836
837 Q: Okay. Now with his hands pointed out towards Officer Wooley, what is he
838 doing from there?
839
840 A: From there he's walking, um, with just, uh, the only way I can describe it, he
841 had this like blank stare on his face where he just - you can tell he did not care
842 about - he wasn't gonna follow instructions. It seemed to me that he had a
843 purpose, and his purpose was very simply to walk towards Officer Wooley
844 and - and harm him or harm himself as a result of walking towards Officer
845 Wooley.
846
847 Q: Is he saying anything at any point?
848
849 A: I did not hear anything at, uh, from - from him at the time.
850
851 Q: Do you hear anyone else out on the street say anything?
852
853 A: I was - I - I wasn't - I didn't hear anybody at that time. There may have been
854 but I don't recall.
855

856 Q: Okay. Your - so your mindset as you're going around the front of the car and
857 Officer Wooley is shouting his commands though, is that this person's armed
858 and he's advancing on Officer Wooley, is that correct?
859
860 A: That's correct, sir.
861
862 Q: At what point do you draw your firearm?
863
864 A: Uh, as soon as I see him advancing on Officer Wooley, I - I unholstered and,
865 um...
866
867 Q: As you're drawing your firearm and you're - are you walking towards the
868 subject at this point or are you stopped?
869
870 A: I had stopped at, uh, on the passenger's side of Officer Wooley's car but at the
871 front of the hood.
872
873 Q: Are you giving any type of commands or...
874
875 A: Uh, no, I didn't, but can I backtrack a minute?
876
877 Q: Ab- absolutely.
878
879 A: I just thought of something in regards to the speed bumps, uh, now that you
880 mention it.
881
882 Q: Okay.
883
884 A: Uh, it was directly on the speed bumps because I remember, uh - uh, marking
885 my shell casings with an FI card and they were in-between two speed bumps,
886 so - so in now, looking back, looking at it, um, at that picture, it was directly
887 on the speed bumps.
888
889 Q: Okay. So if I show you the second picture...
890
891 A: Yeah.
892
893 Q: ...the speed bumps that you reference you're actually on top of those speed
894 bumps?
895
896 Q1: Turn it around.
897
898 Q: Oh, thank you.
899
900 A: Sorry, I didn't mean to interrupt but...

901
902 Q: No, that's actually fine.
903
904 A: But, uh, it just total - it made, uh, my memory come back.
905
906 Q: Okay. So you draw your firearm, you stop at the, um, on the passenger side at
907 the front of the hood. Do you feel at this point in time that you had any other
908 force options available to you?
909
910 A: No, no. It was very quickly, um, evolving. Um, there was absolutely no time
911 to, um, do anything other than deliver rounds to protect what I felt was Officer
912 Wooley's life.
913
914 Q: So your mindset is that you're protecting the life of Officer Wooley at this
915 point in time?
916
917 A: 100%.
918
919 Q: Do you fear for your own safety at any point?
920
921 A: Um, not - I didn't directly feel like I was like the target, per se, but there was
922 always that outlying thing in your mind that, hey, this could eventually very
923 quickly come in my direction, but at the time it was - it was literally just
924 because I - I felt Officer Wooley's life was in danger.
925
926 Q: Where are the other people that you described, um, earlier in relation to where
927 this is taking place?
928
929 A: Um, there's people gathered out on the sidewalk to, uh, to my left, Officer
930 Wooley's left.
931
932 Q: All right. So they're away from this su-subject though that you're contacting
933 or that Officer Wooley is engaged with?
934
935 A: Yes.
936
937 Q: Okay. Did the subject ever turn to you at any point or make any type of either
938 verbal or eye contact with you?
939
940 A: No.
941
942 Q: So it's at this point you fire your - or discharge your firearm, is that correct?
943
944 A: That's correct.
945

946 Q: Okay. How many rounds do you believe you fired?
947
948 A: Uh, I know for certain two, um, possibly a third.
949
950 Q: As you're firing these rounds, are you assessing?
951
952 A: Assessing?
953
954 Q: What's going on or what's - what's the - as you're firing the rounds, were you
955 assessing what the, uh, suspect is doing?
956
957 A: Yes.
958
959 Q: Okay. Can you describe that as you're firing these rounds what happens with
960 the subject?
961 /
962 /
963
964 A: Sure. Um, as I'm delivering my rounds, um, I'm making sure that the suspect,
965 that the rounds are being delivered effectively so that the stop - the threat is
966 being stopped, and it appeared that after the rounds were delivered, that it did
967 the intended purpose, it stopped the threat.
968
969 Q: And how are you made aware that the - or how are - how do you feel that the
970 threat is stopped? What - what - what happens that makes you believe that?
971
972 A: He stopped his advance and he - he eventually fell to the floor - the ground
973 rather.
974
975 Q: As this is kind of transpired, are you aware that Officer Wooley is firing, or do
976 you believe that Officer Wooley fired during this incident?
977
978 A: Yes.
979
980 Q: Is anyone else on scene with you at this point in time?
981
982 A: Just Sergeant DeCosta, but I - like I said earlier I don't remember where she
983 was at proximity to us at the time but I knew she was there.
984
985 Q: But as far as you're aware at this point in time, as you're engaging the subject,
986 it is just you and Officer Wooley?
987
988 A: Correct.
989
990 Q: So after you fire your rounds and, uh, the subject has fell - or fallen to the

991 ground, what happens after that?
992
993 A: At that point I, uh, I looked over to - to make sure that Officer Wooley was
994 okay, um, and then I - I told him that, uh, I was gonna go and I was gonna go
995 to the suspect, I was gonna put handcuffs.
996
997 Q: And what was your intention in placing him in handcuffs or what - what were
998 you thinking as to why you would handcuff the subject?
999
1000 A: Um, it - it's just something that I was trained to do and it was twofold, it was -
1001 that's what I was trained to do, um, in fact in my beginning years of policing,
1002 and then also I just wanted to make sure that that - that was no - he was no
1003 longer a threat if I had his hands accounted for, so to speak in handcuffs, then
1004 - then there was actually no option of, you know, retrieving the knife and so
1005 on.
1006
1007 Q: Do you handcuff by yourself or is somebody else with you at this point?
1008
1009 A: Um, I go - I advance and - and then I start to handcuff him by myself initially
1010 and then Officer Gillett showed up within seconds and assisted me.
1011
1012 Q: What happens after you handcuff him?
1013
1014 A: Um, after I handcuff him, I stepped away. I kind of went and checked on Phil,
1015 um, made sure everything was okay with Officer Wooley and then, uh, um,
1016 kind of just took a step back. Um, I helped to some degree with monitoring
1017 traffic and people who were coming out, telling people to turn away. The -
1018 there's people right, you know, that were in the area that I was asking to step
1019 away from the scene, um, until I was relieved of my duties.
1020
1021 Q: When you say you checked Officer Wooley, did you actually have a
1022 conversation about what had just transpired?
1023
1024 A: Um, not in detail, just, uh, just I general, "Hey, are you okay?" You know.
1025 "Are you good?" He's like, "Yeah, are you okay?" I said, "Yeah," and then,
1026 uh, basically, um, it was - it was pretty clear as to what happened. There was
1027 no reason to talk about it per se.
1028
1029 Q: Um, are you aware that Officer Gillett did anything after handcuffing...
1030
1031 A: Yeah, he just...
1032
1033 Q: ...or assisting you with handcuffing?
1034
1035 A: He was, um, uh, doing like - he was provided medical care to him to some

1036 degree, as best he could

1038 Q: Do you know if medical assistance was summoned or are you aware....

1040 A: Yes, I remember Officer Wooley asking for, uh, to start Fire and the
1041 ambulance.

1043 Q: Did you have any conversations with anyone besides Officer Wooley about
1044 what had happened at the scene?

1046 A: Um, no, no. I, uh, talked to Sergeant (Vonnegut), he came and checked on us.
1047 Uh, he asked the - the basic questions that any supervisor does, uh, what I was
1048 involved, roughly how many rounds were delivered, which direction, and then
1049 at that point I was assigned to, uh, Officer Whites who escorted me back to
1050 the police department.

1052 Q: The questions that Sergeant (Vonnegut) asked you, have you ever ref- ah,
1053 heard them referred to as public safety questions?

1055 A: Yes.

1057 Q: Is that essentially what he did?

1059 A: Yes, 100%.

1061 Q: Now I noted that - or, uh, you noted earlier that you placed, uh, index cards or
1062 something over your casings?

1064 A: Yes

1066 Q: Okay

1068 A. Um

1070 Q: Where

Within a few minutes, a

reference through there, they were, uh, in between the, uh, I guess the flat portion of the - in-between the two speed bumps basically so the lower - the actual part of the street, not the raised part of the speed bumps.

1081 Q: Um, when you handcuffed the - the suspect, um, did you get a look at him?
1082
1083 A: Um, just vaguely. I - I - I looked at his, uh, I noticed that he was - he was
1084 Hispanic, heavyset, you know, um, probably I would say, based on looking at
1085 him, um, probably mid-30s.
1086
1087 Q: Did you recognize that person as someone that you'd ever had contact with
1088 before?
1089
1090 A: No.
1091
1092 Q: Do you recognize the name Agustin Gonsalez?
1093
1094 A: No, I don't.
1095
1096 Q: I'm gonna show you a photograph. It is a little old, but do you recognize the
1097 person in that photograph?
1098
1099 A: No, I've never seen him before.
1100
1101 Q: Can you just indicate that you do not recognize the person on there and sign it
1102 for me, please. And then if you can date it as 11/18/18. Thank you. Um, are
1103 you aware of any, uh, knives or - or other weapons that were recovered at the
1104 scene or...
1105
1106 A: Yeah, there was a...
1107
1108 Q: ...unintelligible) the scene?
1109
1110 A: ...there was a box cutter that was directly underneath him and then...
1111
1112 Q: You actually physically saw that?
1113
1114 A: Yes.
1115
1116 Q: And that was, um, underneath his body you said?
1117
1118 A: Correct.
1119
1120 Q: You said you rolled him over. What was the purpose of rolling him over?
1121
1122 A: Um, well he was in a - a position where he was lying on his side and so I
1123 couldn't - his - his hand was underneath him on his right side so I rolled him
1124 over so I can basically get his - his right hand free so I could continue to
1125 handcuff him.

1126
1127 Q: Okay. I'm gonna show you a photograph. It's a crime scene photograph. Do
1128 you recognize the object in that photograph?
1129
1130 A: Uh, it's a little - it looks like a razor blade.
1131
1132 Q: Okay. Do you recognize that razor blade from the scene?
1133
1134 A: No.
1135
1136 Q: Okay. Anything further?
1137
1138 Q1: Yeah, so, um, going back to the original call type, do you recall, was it given a
1139 designation either via Penal Code section or a typed code radio section?
1140
1141 A: I want to say it was a 417, Penal Code section 417.
1142
1143 Q1: And what is that?
1144
1145 A: Brandishing a weapon.
1146
1147 Q1: So in your mind, once you're dispatched to this event, you are responding to a
1148 criminal event?
1149
1150 A: Yes, sir.
1151
1152 Q1: And what was your - I know you kind of touched on it, and again, what was
1153 your mindset as you received updates on - responding to this call, did that
1154 change your mindset as far as tactics go or once you arrived on the scene?
1155
1156 A: Yes. Um, just because of the fact that it was - it was just continuing, it was
1157 just - that the - the problem never solved itself or ceased prior to my arrival, so
1158 at that point I'm thinking, okay, we really do have a - a credible threat here,
1159 and so, um, obviously you - you start thinking of the proper protection for
1160 yourself, for the citizens, for, you know, your - your partners, and not
1161 necessarily in that order, but generally just - you start thinking of, um, if this is
1162 a threat, what do you do to eliminate this threat, you know, uh, to stop the
1163 threat, to, you know, uh, one way or another, so...
1164
1165 Q1: What was the mention of the weapon used in this incident?
1166
1167 A: A knife.
1168
1169 Q1: Was it ever described as anything other than a knife?
1170

1171 A: I don't recall.
1172
1173 Q1: And based on your training and experience, uh, we talked about are you familiar with what kind of injuries one could sustain, uh, assaulted with a knife or an edged object, correct?
1174
1175
1176
1177 A: Correct.
1178
1179 Q1: Um, did you use your spotlight to illuminate the suspect?
1180
1181 A: Uh, my spotlight was on. Um, I - I can't rem- I - I don't recall if it was - if I pointed it directly at him, I think it was just on.
1182
1183
1184 Q1: And my understanding is that you ran up the passenger side of Officer Wooley's vehicle?
1185
1186
1187 A: Yes.
1188
1189 Q1: Uh, so it - were you able to see the suspect the entire time or what - at what point were you able to actually physically see the suspect?
1190
1191
1192 A: Uh, as soon as I exited my car I saw him, uh, coming at Officer Wooley, so that's when I approached the front of from his car, um, which was only a few feet away from my - from my door basically.
1193
1194
1195
1196 Q1: So did you ever lose sight of the suspect?
1197
1198 A: No.
1199
1200 Q1: Okay. Um, was he illuminated, the suspect?
1201
1202 A: Yes, by headlights.
1203
1204 Q1: Of?
1205
1206 A: A police car.
1207
1208 Q1: Do you recall whose car?
1209
1210 A: Um, both of ours.
1211
1212 Q1: Okay. Uh, going to, you know, um, you said there was like people, frantic. Do you recall where those people were at?
1213
1214
1215 A: Uh, on the sidewalks. Um, uh, within close proximity, I'd say probably

1216 within, you know, uh, within the first two, three houses, people in the general
1217 area. They had kind of gathered around - from what it looked like to me when
1218 I got on scene, that the suspect was - had been out there for a while and that he
1219 drew a crowd of some sort...

1220
1221 Q1: Okay.

1222
1223 A: ...so, um, it appeared that that - they were out there as a result of something
1224 that happened prior, you know, that he generated a crowd somehow or
1225 another.

1226
1227 Q1: Do you believe that these people that came out were at risk?

1228
1229 A: Oh, yes.

1230
1231 Q1: Now you say based on training and experience, um, he walked with a
1232 purpose?

1233
1234 A: Yes.

1235
1236 Q1: Have you ever heard the term of what's called a pre-assault indicator?

1237
1238 A: Yes.

1239
1240 Q1: Would this fall under that?

1241
1242 A: Yes, it would.

1243
1244 Q1: And you originally said he was about 10 to 15 feet away from both you and
1245 Officer Wooley?

1246
1247 A: Yes.

1248
1249 Q1: Um, at what point in time was the distance between when the, um, rounds
1250 were being fired? Did he advance inside that 10 to 15 feet?

1251
1252 A: He was already - he was, uh, he was already with-within the 10 to 15 feet
1253 when the rounds were being fired.

1254
1255 Q1: Okay. And you made mention that his hands were extended out in front of
1256 him?

1257
1258 A: Correct.

1259
1260 Q1: Can you tell me, based on your training and experience, how you interpreted

1261 that?

1262

1263 A: I interpreted that as he had something in his hands in which he was walking

1264 towards Officer Wooley with the - with the intent to - to harm him. That's

1265 how I perceived it.

1266

1267 Q1: Okay. Okay. That's all I've got.

1268

1269 Q: All right. We're gonna take a break and we're gonna pause the interview at -

1270 it's 1605. All right. Restarting the interview at 1611 hours. Uh, Officer Clark,

1271 just a couple more questions. Um, in addition to the spotlight, did you use any

1272 other artificial lighting such as a flashlight?

1273

1274 A: Yes, I did.

1275

1276 Q: Okay. Can you describe, uh, how that went with your flashlight, were you

1277 holding it?

1278

1279 A: Um, I used - I had my flashlight, I think I utilized it after this incident, so it

1280 was to, uh, check the scene, and (unintelligible) the stuff afterwards.

1281

1282 Q: Okay. Was it actually in your hand while your firearm was deployed at the

1283 time that you fired?

1284

1285 A: I don't - I don't think so, no.

1286

1287 Q: Okay. I don't have anything further. Do you have anything?

1288

1289 Q1: I have nothing.

1290

1291 Q: Okay. District Attorney's Office?

1292

1293 Q3: Uh, yeah. The body-worn camera again, um, you said you activated it?

1294

1295 A: Correct.

1296

1297 Q3: And did you have a chance to review it?

1298

1299 A: Yes, I did.

1300

1301 Q3: The footage? And when did you do that?

1302

1303 A: This, uh, this afternoon.

1304

1305 Q3: And did you review that between the time of the incident and before this

1306 interview this afternoon, at any point?
1307
1308 A: No, this is the first I saw it.
1309
1310 Q3: Okay. And you - you said when you got out of the vehicle, that Officer
1311 Wooley had something to the effect of "Drop the knife" and "He's got the
1312 knife", is that correct?
1313
1314 A: Yes.
1315
1316 Q3: Do you know who he's directing that to or if anybody?
1317
1318 A: To the suspect that was, uh, to the suspect.
1319
1320 Q3: So he's saying to the suspect "Drop the knife"?
1321
1322 A: Yes, sir.
1323
1324 Q3: But what about when he said "He's got the knife"?
1325
1326 A: He was saying that to me and Sergeant DeCosta to let us be aware of the
1327 situation.
1328
1329 Q3: All right. And you mentioned that Officer Wooley had discharged his service
1330 pistol, correct?
1331
1332 A: Yes, yes, sir.
1333
1334 Q3: And, um, was that before, after or right about the same time that you
1335 discharged yours?
1336
1337 A: Right about the same time.
1338
1339 Q3: At about the same time? Did you see him shooting or you just heard?
1340
1341 A: No, I just heard.
1342
1343 Q3: And so my understanding is when you got out of the car, the su- the suspect
1344 was about 10 or 15 feet from you and also from Officer Wooley, correct?
1345
1346 A: Yes, sir.
1347
1348 Q3: At the time that you discharged your, uh, service pistol, how far was the
1349 suspect from Officer Wooley?
1350

1351 A: Uh, 10, 15, 10 ten feet I'd say, 10, 15 feet, somewhere around there?
1352
1353 Q3: So he had moved from a distance of 10 to 15 feet to about 10 feet, so about
1354 five feet?
1355
1356 A: No, no. He was - he was within 10 to 15 feet, uh, from Officer Wooley, uh,
1357 when - when we delivered the rounds.
1358
1359 Q3: Okay. Let me just - so it's clear in my mind.
1360
1361 A: Yeah.
1362
1363 Q3: So when you first got out, the suspect was about 10 to 15 feet from - between
1364 Wooley and the suspect, correct?
1365
1366 A: He's probably closer to 20 feet or so and then he's walk - he's walking in.
1367
1368 Q3: Okay.
1369
1370 A: So, sorry.
1371
1372 Q3: So he's - he was moving...
1373
1374 A: He was moving...
1375
1376 Q3: ...forward...
1377
1378 A: ...forward...
1379
1380 Q3: ...and he has moved forward approximately five feet when you discharged
1381 your...
1382
1383 A: Approximately 10 - 10 en feet from, um, he was approximately 10 feet from
1384 Officer Wooley when I discharged my service weapon.
1385
1386 Q3: Okay. So from a distance of about 20 feet, he moved there approximately 10
1387 feet, correct?
1388
1389 A: Correct.
1390
1391 Q3: And at the time you discharged your service pistol, he's about 10, 15...
1392
1393 A: From Officer Wooley.
1394
1395 Q3: All approximation?

1396
1397 A: Yes.
1398
1399 Q3: Did the suspect say anything while he was advancing towards Officer
1400 Wooley?
1401
1402 A: Uh, if he did I didn't hear anything.
1403
1404 Q3: Did he make any sounds or anything like that?
1405
1406 A: Not that I recall.
1407
1408 Q3: So there.
1409
1410 Q: Okay.
1411
1412 Q4: So I just want to go back, um, just to when you arrive on the street. As I
1413 understand it, you're going down the street, you pass a patrol car. You're not
1414 sure whose patrol car that is, is that right?
1415
1416 A: Correct.
1417
1418 Q4: And was that parked on the driver's side or the passenger's side of your car?
1419
1420 A: Uh, it was on the, uh, it was on my driver's side.
1421
1422 Q4: Okay. All right. So you continue down past that, you don't see anyone else at
1423 that point except for up in front of you?
1424
1425 A: Correct.
1426
1427 Q4: Okay. So you continue forward, um, and then I think you told us that you
1428 stopped behind the next patrol car?
1429
1430 A: Yes.
1431
1432 Q4: And that patrol car, was that Wooley's patrol car?
1433
1434 A: I'm assuming so.
1435
1436 Q4: Okay. That's where Wooley was though?
1437
1438 A: Yeah.
1439
1440 Q4: Okay.

1441
1442 A: It seems very likely that - I mean, uh, without specifically seeing him in the
1443 car I would say...
1444
1445 Q4: Yeah.
1446
1447 A: ...that for all intents and purposes, it's very clear that would have been Officer
1448 Wooley's car.
1449
1450 Q4: Okay. When you stop, I believe you told us that you offset your vehicle?
1451
1452 A: Uh, I didn't offset. I just kind - I - I - when I say offset, I - basically Officer
1453 Wooley was here, I was right here. So I stopped in the middle of the road.
1454 Officer Wooley was kind of off to the left.
1455
1456 Q4: Okay. So you're to - you would be closer to his - what is that, the right rear
1457 quarter panel of Officer Wooley where he stopped?
1458
1459 A: Yes, sir.
1460
1461 Q4: Okay.
1462
1463 Q: For the audio, Officer Clark's indicated with his hands, uh, left hand is out
1464 and his right hand is directly behind and to the right.
1465
1466 Q4: Okay. And you're both driving the SUVs, is that correct?
1467
1468 A: Yes, sir.
1469
1470 Q4: Okay. You get out of your car, I'm assuming on the driver's side of course.
1471
1472 A: You're right.
1473
1474 Q4: You weren't climbing all over? Okay, so you got out your car. When you
1475 open your door, are you directly behind Wooley's car now?
1476
1477 A: Yes.
1478
1479 Q4: Okay. And it's from that position you're able to see the subject?
1480
1481 A: Yes, sir.
1482
1483 Q4: Okay. And were you looking through the - your window, over it...
1484
1485 A: I - I - I can see over the - I can see over the hood of the car, of - of the - his

1486 car, the suspect approaching.
1487
1488 Q4: Okay. So are you at the hood or are you at the rear of the vehicle?
1489
1490 A: I can see - I - I can see him from both angles, so basically I originally saw him
1491 as I exited my car, which would have been closer to the rear of Officer
1492 Wooley's car.
1493
1494 Q4: Okay.
1495
1496 A: But I can still see him coming, and then as I approach to, you know, what is it,
1497 the distance from the - the - the rear of a car to the front of the car, uh, to the
1498 door portion of the - the hood, um, a few feet so, uh, but then I could see him
1499 clearly 'cause I never lost sight of him.
1500
1501 Q4: Okay. So you're looking over the top of the vehicle is what I'm trying to get
1502 at?
1503
1504 A: Yes, sir.
1505
1506 Q4: Okay. So you - you look over the top of the vehicle. Wooley then is on the
1507 opposite side of where you're headed to, is that correct? 'Cause you're going
1508 to the driver's side - I mean the passenger's side?
1509
1510 A: Correct.
1511
1512 Q4: All right. You can see him the entire time, the subject, you can see him the
1513 entire time?
1514
1515 A: Yes, sir.
1516
1517 Q4: Okay. Now, at some point you said that you heard Wooley say something to
1518 the effect of "Drop the knife, he's got a knife," or some - some words to the
1519 nature of that. I didn't write it down verbatim what he said.
1520
1521 A: Yes, yes.
1522
1523 Q4: Okay. Where in relationship to Wooley's vehicle were you when you heard
1524 that?
1525
1526 A: Um, I was right - I would say right at his passenger door.
1527
1528 Q4: Okay. All right, so you've gotten as far as the passenger door. Do you
1529 continue forward from the passenger door?
1530

1531 A: Just a matter of, you know, inches really at that point.
1532
1533 Q4: Okay, okay. Are you...
1534
1535 A: I used the car as a, uh, kind of a barrier between, uh, myself and the subject
1536 and within earshot of Officer Wooley.
1537
1538 Q4: Okay.
1539
1540 A: So it was kind of a - without making a conscious decision to use that as a
1541 tactical advantage, it was - that was in my thinking, it was like I was gonna
1542 use that car as a buffer between us in case he turned on me, if that's something
1543 - if that makes sense.
1544
1545 Q4: Yes. And as you're there, um, had Wooley begun to fire at that point?
1546
1547 A: I'm sorry, say that again.
1548
1549 Q4: Once you got to this area that you described as maybe in inches in front of the
1550 driver's door, after you heard Wooley say something to the effect of "He's got
1551 the knife," had Wooley fired at that point?
1552
1553 A: No.
1554
1555 Q4: Okay. So you're in this location that we both described there. Um, do you
1556 hear Wooley, uh, well does Wooley say anything else while you're there at
1557 that point?
1558
1559 A: Just what I told you, I don't recall...
1560
1561 Q4: Okay. Did he say "Drop the knife" again or anything like that?
1562
1563 A: Um, yeah, he gave him repeated commands, you know.
1564
1565 Q4: Okay. Was he giving repeated commands the entire time that you were at that
1566 location you described as inches, uh, in front of that, uh, passenger door?
1567
1568 A: Yes, until there was no other option, um, and the incident happened, so...
1569
1570 Q4: Okay. And then you - you said if I remember correctly, you said you heard
1571 Wooley fire as well?
1572
1573 A: Correct.
1574
1575 Q4: Okay. And you fired at some point as well?

1576
1577 A: Yes, sir.
1578
1579 Q4: Okay. Um, and you said it was like two, possibly three shots?
1580
1581 A: Yes.
1582
1583 Q4: Okay. When you fired, um, describe the subject - now I know that based on
1584 our conversation here, he's approximately 10 feet from Wooley. But describe
1585 what you're seeing when you fired your weapon.
1586
1587 A: Uh, what I'm seeing after I fired my weapon is that, uh...
1588
1589 Q4: I'm sorry, hang - hang on for one second.
1590
1591 A: Sure.
1592
1593 Q4: You said describe what I'm seeing after. Uh, I'm asking you to describe what
1594 you're seeing as you're firing your weapon.
1595
1596 A: Oh, as I'm firing my weapon? He's - he's coming after Officer Wooley, um,
1597 without, uh, with - with his hands extended in what I believe was in a way that
1598 was going to harm Officer Wooley.
1599
1600 Q4: Okay. Were both hands extended?
1601
1602 A: He had his hands like this I believe, something along those lines.
1603
1604 Q4: Okay. And by this he's - you've got...
1605
1606 A: Forward out with my hand cupping my - my right hand.
1607
1608 Q4: Okay. All right. At that point could you see anything in his hands?
1609
1610 A: I did not, no, I couldn't.
1611
1612 Q4: Okay. So you fired one, two, possibly a third time. What happens with the
1613 subject at that point?
1614
1615 A: At that point, um, he no longer was advancing at Officer Wooley, and...
1616
1617 Q4: Okay.
1618
1619 A: ...he eventually fell to the floor.
1620

1621 Q4: Okay. When you initially fired, was he moving towards Officer Wooley or
1622 had he stopped at that point?
1623
1624 A: No, he was still going towards Officer Wooley...
1625
1626 Q4: Okay.
1627
1628 A: ...when I fired at him.
1629
1630 Q4: Okay. So it's not until after you fired that you saw him actually stop?
1631
1632 A: Yes, sir.
1633
1634 Q4: And that - and then he fell to the floor?
1635
1636 A: That's correct.
1637
1638 Q4: Okay. Now you also told us that you, um, he gets handcuffed, and you and
1639 another officer handcuffed him?
1640
1641 A: Yes, Officer Gillett.
1642
1643 Q4: Gillett? Okay, got it. And you said you saw the box cutter under him?
1644
1645 A: Yes.
1646
1647 Q4: Could you describe the box cutter?
1648
1649 A: It looked like a standard like metal, um, grayish metal box cutter.
1650
1651 Q4: Okay. Approximately how long or...
1652
1653 A: Just a standard like, you know, four inches or something.
1654
1655 Q4: Okay. Did you see anything else under him at that point?
1656
1657 A: I wasn't looking, no, I didn't see anything.
1658
1659 Q4: Okay. Okay. You didn't search him or anything like that, right?
1660
1661 A: No, sir.
1662
1663 Q4: As you were going to the location before you actually arrived on the scene,
1664 had you received any information that anyone had been harmed or stabbed or
1665 anything like that?

1666
1667 A: Um, I don't recall, um...
1668
1669 Q4: Okay.
1670
1671 A: ...hearing. I'm not saying that that - that wasn't, I just don't recall hearing that.
1672
1673 Q4: Okay.
1674
1675 A: I do remember, um, I believe, if I recall, um, correctly, was the argument was - had something to do with a boyfriend and girlfriend, but that - I don't know the type of or rem- remember the details.
1676
1677
1678
1679 Q4: Okay, okay. Thank you. Caesar, you got anything else?
1680
1681 Q3: Just one, uh, backdrop. What was your backdrop?
1682
1683 A: Uh, it was, uh, I had a big white van, um, that I got up front - the engine block, uh, pointed directly towards Officer Wooley. Um, and I was kind of diagonal to it so I had - I would have essentially had the engine block and the side of the van as a backdrop.
1684
1685
1686
1687
1688 Q3: That's all I had.
1689
1690 Q: Before I turn it over to Mr. Stern, um, did you move your vehicle after the incident?
1691
1692
1693 A: No.
1694
1695 Q: Okay.
1696
1697 A: I did not.
1698
1699 Q: And, um, you noted that, uh, Officer Wooley said "He's got the knife," to you and what you believe was Sergeant DeCosta. Was that radio traffic or are you actually hearing him say this?
1700
1701
1702
1703 A: Uh, I'm actually hearing him say it, but I - I don't know. He might have had his hand on the mic and doing it at the same time. I don't recall if it came out of my radio, but I definitely heard him saying, it seemed to me that it was more of just kind of letting us know but it's very possible that he could have been broadcasting on the radio 'cause he had remarkable radio, uh, etiquette control in that whole situation so it's very possible that he could have done both, so...

1711 Q: Okay. Do you recall hearing anything else on the radio as the incident's kind
1712 of unfolding from either, uh, Officer Wooley or Sergeant DeCosta?
1713
1714 A: No.
1715
1716 Q: Okay. Uh, Mr. Stern?
1717
1718 Q2: Sure. Um, at what point do you turn on your body-worn camera?
1719
1720 A: Um, right after the - the shooting.
1721
1722 Q2: Uh, why at that point and not earlier?
1723
1724 A: Um, the reason why is because the way the shifts are designed is that when
1725 you work graveyards, you're not primary for, um, uh, paper and - and being
1726 the, uh, primary officer for incidents or anything that goes on in the city 'til 9
1727 o'clock. Um, based on the air quality, we were kind of told to - to hunker
1728 down and not do a whole lot of pro-activity outside of our car 'cause of the air
1729 quality, so that's why I was underneath Review, and I just hadn't turned it on
1730 for the day yet, uh, or turned - or clicked it, so when I got on the scene it just
1731 happened so quickly that I didn't have time to click it on until right after -
1732 once I felt that it was - I was in a safe environment, then I activated it, but...
1733
1734 Q2: Okay. I don't have any other questions. Thank you, gentlemen.
1735
1736 Q1: Thank you.
1737
1738 Q: All right. Is there any other questions before we, uh, conclude?
1739
1740 Q2: You want him to sign that?
1741
1742 Q: I do.
1743
1744 Q2: Sure.
1745
1746 Q: Um, Officer Clark, if you can take that red marker again - you can indicate a
1747 number 1 on this picture. This is the Google Map, and it's just further out. So
1748 if you can just indicate number 1, sign your name and date it, and again,
1749 11/18/2018. All right. As you take the second Google Map and it's indicated -
1750 if you can indicate number 2, sign your name and date it, and again,
1751 11/18/2018. You already had to do that with the photograph, but I'm gonna,
1752 um, have you sign and date the photograph that we showed you of the razor
1753 blade.
1754
1755 A: Number 3?

1756
1757 Q: Uh, no, you can just sign and date that one on the (unintelligible).
1758
1759 Q1: Anywhere along the...
1760
1761 A: Sure.
1762
1763 Q1: Anywhere along the bottom you can initial...
1764
1765 A: Okay.
1766
1767 Q1: ...it's visible.
1768
1769 A: Date it?
1770
1771 Q1: Please.
1772
1773 Q: If you would, 11/18/18. Officer Clark, is there anything that you think we
1774 should know about that we haven't covered during this interview?
1775
1776 A: No, sir.
1777
1778 Q4: How t- how all are you?
1779
1780 A: Me?
1781
1782 Q4: Yeah.
1783
1784 A: 5'9" and change.
1785
1786 Q4: Thank you.
1787
1788 Q: Okay. Uh, Officer Clark, I appreciate your time and we're gonna conclude the
1789 interview at 1627 hours.
1790
1791 Q4: I like that, 5'9" and change.
1792
1793 A: I try to give myself a little extra bump, you know.
1794
1795 Q: Okay.
1796
1797 A: (Unintelligible) man that way.
1798
1799
1800 The transcript has been reviewed with the audio recording submitted and it is an accurate

1801 transcription.

1802 Signed _____